



Walendy: The Trial

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Not a Kafka fantasy but reality in contemporary Germany

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My husband has been in prison for 10 months now, at 48147 Muenster, Gartenstrasse 26, for "incitement to racial hatred." The reasons for his imprisonment were published in the 69th issue of *Historische Tatsachen*. He sold his *Historische Tatsachen*, seventy-four of which have been published, to Belgium. The 69th issue also appeared under the responsibility of the Belgians. According to new legislation and present legal practice, as well as in view of the extension of the statute of limitations for "Holocaust publishing crimes" to five years, further publication will be impossible for him.

He was sentenced to 15 months imprisonment, without suspension of sentence, even though he had no prior convictions, for three criminal offences as follows:

1. The female prosecutor[†] indicted him for articles which he did not write at all. His immediate, and very strongly worded, written protests against these accusations, protests which included written objections by lawyers, were never even taken into consideration; nor was anything else he ever wrote in his own defence. Similarly, his very strongly worded verbal objections in the main trial at the Regional Court of Bielefeld went completely unheeded.

He was sentenced for allegedly writing the following sentence: "The Jews invented the Holocaust to extort money from Germany financially," although he never even wrote such a sentence, or hinted at any other sentence of similar content. The Regional Court admitted that he had never "denied" [*Leugnung*] the Holocaust, but nevertheless claimed that he had "trivialized" [*Verharmlosung*] the Holocaust.

2. Ignoring all my husband's evidence, the Regional Court claimed that my husband's statement that International Jewry declared war on Germany on 24 March 1933 was false. And "whosoever makes false statements of fact can lay no claim to a right to freedom of expression." So much for my husband's basic rights to freedom of the press, and freedom of scientific research. This "proven fact" – "proven" by Judge Brechmann without any proof whatsoever has, since then, become a "legally proven" "state of fact" in the "facts of the case," which can no longer be examined by the court of appeals (the Federal Court), since the Federal Court, as an appeals body, can only examine "errors of form," but not "states of fact."
3. My husband was also convicted of writing numerous passages for which he had never even been indicted. This is the same as indicting someone for slander, and then sentencing him for robbery and murder, without ever giving him a chance to answer the charges against him with so much as one single word, let alone allowing him to offer evidence of his innocence, since the judges never said one single word about these passages in the main trial. My husband only learned about these accusations later, in the grounds for the judgement. These passages were not found to contain anything untrue. The Federal Court found "no error of law," and the Federal Constitutional Court "did not accept the case" on appeal.

In addition, and in the meantime, a fine of DM 20,000 was also imposed. My husband was indicted for "possession" of twelve copies of *Mein Kampf* "for storage," but he was sentenced for "distribution." The Regional Court stated in his favour that "no distribution had taken place," but claimed that "distribution was nevertheless planned," thus "aggravating the offence," although the Regional Court never offered any proof that the books were ever ordered. Although an application was made to pay the fine in instalments, and was approved by the Regional Court of Bielefeld, and although five instalments had already been paid, Judge Brechmann of the Regional Court of Bielefeld, during a summary of the facts of the criminal case, converted this decision into five additional months of imprisonment following an application by the State Prosecutor's Office, and justified this with the words "having interrogated the Defendant," although he never asked my husband any questions about this at all. My husband's immediate objection was rejected by the Regional Court of Appeals of Hamm, so that the judgement became "enforceable in law."

At the present time, my husband is enjoying "weekend holidays," and is being transferred to the "closed prison" of Muenster to serve an "open sentence."

He was refused half-sentence release by the Chamber of Criminal Enforcement of Muenster despite the prison's excellent opinion of him, "because they could not take the responsibility for gambling on whether or not the Defendant might, or might not, commit further offences in the event of early release." Half-sentence release was also refused "because the Defendant wished to be released." Curiously, my husband had not yet expressed any desire to be released; rather, the prison recommended half-sentence release on its own responsibility.

Of course, this is all connected to his "trial," which is still open, in which he was sentenced to 14 additional months of imprisonment by the Lower District Court of Herford in 1997 – not for what he wrote, but "for what he didn't write." The Regional Court of Bielefeld set an appeals hearing for the 17th of July, but unfortunately, two lawyers who had been summoned as witnesses failed to appear, one because of illness, and the other because of time constraints, so

that the next court date was postponed to the 25th of September. A probation officer has already been appointed for him, to help him “find his way back on the right track,” and will certainly advise him as to what he may, and may not, still do as a “free man” in the BRD. His state of health is relatively good, he is 71 years old!

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† Translator’s Note: For some reason, nearly all German officials are women. Walendy’s Probation Officer is also a woman.

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